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By: **Delegate Arnick**

Introduced and read first time: February 16, 2004

Assigned to: Rules and Executive Nominations

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A BILL ENTITLED

1 AN ACT concerning

2 **Workers' Compensation - Initial Award of Compensation**

3 FOR the purpose of requiring a party who seeks an initial award of compensation  
4 under the Maryland Workers' Compensation Act to file an application within a  
5 certain amount of time after the latter of the date of the accident, the date of  
6 disablement, or the last compensation payment; requiring a party who seeks an  
7 award of compensation to file an application within a certain amount of time if  
8 it is established that the party failed to file the application because of fraud or  
9 facts and circumstances amounting to an estoppel; providing that failure to  
10 apply for an initial award of compensation bars an initial award under certain  
11 circumstances; and generally relating to an application for an initial award of  
12 compensation under the Maryland Workers' Compensation Act.

13 BY repealing and reenacting, with amendments,  
14 Article - Labor and Employment  
15 Section 9-736  
16 Annotated Code of Maryland  
17 (1999 Replacement Volume and 2003 Supplement)

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
19 MARYLAND, That the Laws of Maryland read as follows:

20 **Article - Labor and Employment**

21 9-736.

22 (a) If aggravation, diminution, or termination of disability takes place or is  
23 discovered after the rate of compensation is set or compensation is terminated, the  
24 Commission, on the application of any party in interest or on its own motion, may:

25 (1) readjust for future application the rate of compensation; or

26 (2) if appropriate, terminate the payments.

27 (b) (1) The Commission has continuing powers and jurisdiction over each  
28 claim under this title.

1           (2)     Subject to paragraph (3) of this subsection, the Commission may  
2 modify any finding or order as the Commission considers justified.

3           (3)     Except as provided in subsection (c) of this section, the Commission  
4 may not modify an award unless the modification is applied for within 5 years after  
5 the latter of:

- 6                   (i)     the date of the accident;
- 7                   (ii)    the date of disablement; or
- 8                   (iii)   the last compensation payment.

9           (4)     A PARTY WHO SEEKS AN INITIAL AWARD OF COMPENSATION SHALL  
10 FILE AN APPLICATION WITHIN 5 YEARS AFTER THE LATTER OF:

- 11                   (I)     THE DATE OF THE ACCIDENT;
- 12                   (II)    THE DATE OF DISABLEMENT; OR
- 13                   (III)   THE LAST COMPENSATION PAYMENT.

14   (c)   (1)     If it is established that a party failed to file an application for  
15 modification of an award OR FOR AN INITIAL AWARD OF COMPENSATION because of  
16 fraud or facts and circumstances amounting to an estoppel, the party shall apply for  
17 modification of an award OR FOR AN INITIAL AWARD OF COMPENSATION within 1  
18 year after:

- 19                   (i)     the date of discovery of the fraud; or
- 20                   (ii)    the date when the facts and circumstances amounting to an  
21 estoppel ceased to operate.

22           (2)     Failure to file an application for modification OR FOR AN INITIAL  
23 AWARD OF COMPENSATION in accordance with paragraph (1) of this subsection bars  
24 modification OR AN INITIAL AWARD under this title.

25   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
26 October 1, 2004.